APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,975	01/20/2004	Bettina Walter	MS1-1801US	3480

22801   7590   06/18/2009
LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER
WHIPPLE, BRIAN P

ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
06/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/760,975	WALTER ET AL.
Office Action Summary	Examiner	Art Unit	
	BRIAN P. WHIPPLE	2452	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>31 March 2009</u>.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-36</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-36</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>12/10/08 and 3/31/09</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06) **Office Action Summary** Part of Paper No./Mail Date 20090617

DETAILED ACTION

1.   Claims 1-36 are pending in this application and presented for examination.

Response to Arguments

2.   Applicant's arguments, see page 18, filed 3/31/09, with respect to the 35 U.S.C. 101

rejections of claims 1-29, have been fully considered and are persuasive. The 35 U.S.C. 101

rejections of claims 1-29 have been withdrawn.

3.   Applicant's remaining arguments with respect to claims 1-36 have been considered,

but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming
> the subject matter which the applicant regards as his invention.

5.   Claims 1-13 and 23-29 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

6.   As to claim 1, the phrase "both of text message and the emoticon…" is confusing,

because it is unclear if the text message is the same as the one introduced earlier in the claim.

It may have been intended to include language similar to "both of **the** text message…" or

"both of <u>said</u> text message…"

7.   As to claim 23, the claim is rejected for reasons similar to claim 1 above.

8.   As to claims 2-13 and 24-29, the claims are rejected due to their dependency on, and

inclusion of, the rejected subject matter of claims 1 and 23, respectively.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to a
> person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

10.   Claims 1-2, 4, 6, 11-12, 14, 21, 23-25, 30-31, 33, and 35-36 are rejected under 35

U.S.C. 103(a) as being unpatentable over Challapali, U.S. Publication No. 2002/0194006 A1,

in view of Hyon, U.S. Publication No. 2002/0077135 A1, and further in view of Heikes et al.

(Heikes), U.S. Publication No. 2003/0225848 A1.

11.   As to claim 1, Challapali discloses a method, comprising:

creating, by a pixel array generator, an emoticon by selecting a single set of pixels to

be used as the emoticon ([0020], ln. 12-16; [0021], ln. 1-5);

assigning a character sequence to the pixels by a sender using a keyboard device

([0019], ln. 5-8, "keyboard"; [0021], ln. 5-8; [0023], "resulting from an angry emoticon string

>:-<"; [0025], ln. 2-5); and

transmitting a text message including the character sequence to a destination to allow

for reconstruction of the pixels at the destination (Fig. 1; [0011]), wherein the emoticon is to

be substituted for the character sequence within the text message ([0011]; [0027], ln. 1-3) and

the emoticon is displayed on a screen ([0019], ln. 8-10, "CRT display"; [0020], ln. 9-11).

Challapali is silent on creating an emoticon by the sender;

storing the emoticon in a custom emoticon object store;

the emoticon within the text message and both of text message and the emoticon are

displayed on a screen; and

establishing a real-time peer-to-peer link between the sender and the destination to

retrieve the pixels from a storage medium associated with the sender.

However, Hyon discloses creating an emoticon by a sender (Page 3, left column, claims 1 and 6, "the emoticons are created and stored by the user"); and

establishing a real-time peer-to-peer link between the sender and a destination to retrieve pixels from a storage medium associated with the sender ([0011]; [0044], ln. 3-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Challapali by enabling the sender to create an emoticon and establish a real-time peer-to-peer link between the sender and the destination to retrieve the pixels from a storage medium associated with the sender as taught by Hyon in order to enable a user to easily input custom emoticons for transmission to a recipient.

Challapali and Hyon are both silent on storing the emoticon in a custom emoticon object store; and

the emoticon within the text message and both of text message and the emoticon are displayed on a screen.

However, Heikes discloses storing an emoticon in a custom emoticon object store (Fig. 16; [0024], ln. 4-6 and 14-16; [0074], ln. 15-17; [0097]);

the emoticon within a text message and both of text message and the emoticon are displayed on a screen (Fig. 14; Fig. 15; [0038], ln. 12-15; [0088], ln. 14-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Challapali and Hyon in the aforementioned manner as

taught by Heikes in order to store custom emoticons for future access and in order to display

both a text message and an emoticon in a conversation window as may be desired by a user

in order to indicate both the message being conveyed and the emotional context intended by

the user.

    Examiner will now summarize the sections of the prior art cited above.

    Challapali teaches a method for converting received emoticon strings to facial

animations. Clearly, a facial animation is a graphical display that is comprised of pixels.

Therefore, either the original definition of facial animations or the inputting of emoticon

strings by a user which then results directly in the execution of a facial animation may be

seen as the selection of pixels to be used as an emoticon. In other words, a programmer

creating an animated emoticon or a user causing an animated emoticon to be displayed is

selecting pixels, because the animated emoticon itself is directly comprised of pixels.

    The facial animation may be seen as a "single set of pixels," because the Applicant

does not limit the size of the set of pixels or define the term "set." The facial animation may

be seen as a set of pixels, because each facial animation will run through the set number of

different pixel grids making up the facial animation. A single "set" of pixels is not the same as

a single "grid" of pixels constantly displayed as may have been intended by the Applicant.

Challapali mentions that the aforementioned facial animations occur as a direct result of character sequences, or emoticon strings, such as :-) and >:-<.

Challapali also clearly shows that text messages are received from a first user by a second user and that appropriate processing occurs to substitute emoticon strings within the text message for corresponding facial animations. Paragraph [0011] and Figure 1 in particular clearly disclose a text message is sent by a first user, processed as incoming data by a data import system at a second location remote from the first user, and text-to-animation substitution occurs by a text-to-animation system.

As discussed in the interview conducted on 5/28/08, Applicant felt that the prior art cited in the previous Office action did not clearly disclose that the substitution for the character sequence did not occur within the text message, as the emoticon was separately displayed outside of the conversation itself. Applicant may feel similarly about the prior art of Challapali in that the text message itself is substituted for animation, and therefore the emoticon is not within the text message itself.

However, as discussed in the aforementioned interview, Examiner stated he did not feel the current amendment requires an explicit substitution of the emoticon into the text message for the character sequence within the text message. That is because the way the claim is written currently, only the character sequence itself must be interpreted as

occurring within the text message, given the broadest reasonable interpretation (as allowed

under MPEP 2111).

The claim simply states that the emoticon is to be substituted for the character

sequence within the text message. This is the case in Challapali. The character sequence

within the text message is received by the data import system, and a text-to-animation

system causes a facial animation to be substituted for corresponding emoticon strings in the

text message. The claim does not require that the emoticon is to be substituted within the

text message for the character sequence within the text message.

Hyon discloses an emoticon input method that allows a user to create and store

emoticons. The user can change and edit the emoticons stored in his or her mobile terminal.

These custom emoticons may then be sent in an SMS (Short Message Service) message

transmitted to another user.

Heikes discloses personalized items created for a user. The personalized items can

include custom emoticons that are stored either locally or remotely. Heikes invokes common

IM clients, such as the America Online (AOL) client, which are known to include text

messages displaying both text and emoticons.

12.   As to claim 2, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, wherein the character sequence has characters less than or equal to seven

(Challapali: [0023], "resulting from an angry emoticon string >:-<").

13.   As to claim 4, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, wherein the character sequence allows real-time mapping to the pixels

(Challapali: Fig. 2; Fig. 3; [0004]; [0011]).

        Challapali discloses the integration of facial animations into real-time on-line chat.

The substitution of facial animations for text strings occurs in real-time, as Challapali has

already disclosed the on-line chat as being real-time, and additionally discloses that the

substitution of facial animations occurs according to pre-defined associations between facial

animations and corresponding emoticon strings.

14.   As to claim 6, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, further comprising transmitting the character sequence in a real-time first

communication (Challapali: [0004]; [0011]); and

        transmitting data representing the pixels in a second communication, wherein the

data reconstructs the pixels in place of the character sequence in the real-time first

communication (Challapali: Fig. 1; [0011]).

Challapali teaches that a first communication is received from a first user, which

consists of text data comprising word strings and emoticon strings. This first communication

is parsed by a remote system and, in place of the first communication, the end user receives a

second communication comprising facial animations in place of the emoticon strings in the

text message.

15.   As to claim 11, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, wherein the transmitting uses at least one of an object store (Challapali: Fig.

1; [0019, ln. 1-5) and an object transport mechanism (Challapali: Fig. 1; [0011]).

Challapali discloses that at least the software programs used are stored. Additionally,

the pre-definition of facial animations to corresponding emoticon strings indicate to

Examiner that Challapali must store the facial animations and the mapping between

emoticon strings and the facial animations. Challapali explicitly discloses an object transport

mechanism as seen in the sections of Challapali cited both for claim 11 and for claim 1 above.

16.   As to claim 12, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, wherein the transmitting comprises instant messaging (Challapali: Fig. 1;

[0004]; [0020], ln. 2-11).

17.   As to claims 14, 23, and 35, the claims are rejected for reasons similar to claim 1

above.

18.   As to claim 21, the claim is rejected for reasons similar to claims 1 and 6 above.

19.   As to claim 24, the claim is rejected for reasons similar to claim 1 above.

        Facial animations were created and mapped to character sequences by the creator of

the text-to-animation system. Since the user interface is not required to be client-side by the

claim, it is understood that the provider of the text-to-animation service mapped custom

facial animations to character sequences that are then implemented by users of the service in

interfaces for real-time chat.

20.   As to claim 25, the claim is rejected for reasons similar to claims 1, 6, and 11 above.

21.   As to claim 30, the claim is rejected for reasons similar to claim 24 above.

22.   As to claim 31, the claim is rejected for reasons similar to claim 4 above.

23.   As to claim 33, the claim is rejected for reasons similar to claim 6 above.

24.   As to claim 36, the claim is rejected for reasons similar to claim 11 above.

25.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, and Heikes as applied to claim 1 above, further in view of AllAlias.com; MUST READ:

Signature/Avatar Rules, Updated 5-23-03; 9/6/03; AllAlias.com.

26.   As to claim 3, the claim is rejected for reasons similar to claim 1 above.

        The definition of the pixel grid as 19 x 19 is merely a design choice; it is known in the

art that an icon may be constructed to conform to various pixel dimensions.

        Additionally, pixel grids for emoticons were known to be required to conform to a 19

x 19 pixel grid at the time of the invention. This is shown, for example, by the forum rules

for AllAlias.com. The signature rules require smilies or similar images must be 19x19 pixels

(Page 1, SIGNATURE RULES).

        Therefore, it would have been obvious to one of ordinary skill in the art at the time of

the invention to modify the teachings of Challapali, Hyon, and Heikes by defining the pixel

grid as 19 x 19, as this was a commonly used limit on emoticons at the time of the invention

as taught by AllAlias.com. To not limit emoticons in such a way would lead to massive

emoticons that would consume undue bandwidth and processing power of networking

systems, as well as lead to end user frustration at receiving massively sized emoticons in

instant messages and/or forum posts.

27.   Claims 5, 7, 26, 28-29, and 32 rejected under 35 U.S.C. 103(a) as being unpatentable

over Challapali, Hyon, and Heikes as applied to claims 1, 6, 23, and 30 above, further in view

of Chodor et al. (Chodor), U.S. Publication No. 2002/0036990 A1.

28.   As to claim 5, Challapali, Hyon, and Heikes do not explicitly disclose the parsing of

the character sequence into an object name for the pixels, wherein the object name includes

an identifier of the pixels and a location of the pixels.

        However, Challapali does disclose the mapping of a character sequence to a

corresponding facial animation, comprising pixels, as discussed above. This is accomplished

by the receiving system parsing received messages for word strings and emoticon strings, also

discussed above. Therefore, at the very least, Challapali must extract an object name for the

pixels. This is because Challapali parses text messages for emoticon strings and substitutes

corresponding facial animations for the emoticon strings. In order to identify the association

between an emoticon string and a corresponding facial animation, after the parsing of the

text message for the emoticon string, the corresponding facial animation must be identified

and therefore an object name clearly exists for the facial animation.

Clearly, the text-to-animation system has means for receiving an emoticon string,

identifying a corresponding facial animation, and displaying this facial animation to the end

user. In order to do so, the facial animation must contain a mapping to the emoticon string,

and the facial animation must be located in the system, and displayed appropriately. This

requires that actions identical or similar to the ones claimed be performed.

Additionally, even if Applicant is to argue that Challapali does not disclose the object

name includes an identifier of the pixels and a location of the pixels, this is known in the art,

as is shown by Chodor. An example of a character sequence that is parsed for an object name

that includes an identifier of pixels and a location of pixels would be a URL that corresponds

to an image.

Chodor discloses the parsing of the character sequence into an object name for the

pixels ([0081]), wherein the object name includes an identifier of the pixels and a location of

the pixels ([0082]). Examiner notes that Chodor does not need to disclose the parsing of the

character sequence into an object name, as this is inherent to Challapali as discussed above.

Text messages are known in the art to be parsed for text corresponding to a URL and

translated into a corresponding hyperlink. Additionally, a user copying and entering the URL

received in the email message would have the text parsed by a web browser when entered

into the address field. Furthermore, the URL in Chodor includes both a picture identifier of

9897 and a location, as the URL itself leads to the location of the image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of

the invention to modify the teachings of Challapali, Hyon, and Heikes by including an

identifier of pixels and a location of the pixels in an object name as taught by Chodor in

order to identify images and their locations to a user/system so that the user/system may

access and view the corresponding image.

29.   As to claim 7, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 6, further comprising the data comprises a portable network graphics file

(Challapali: Fig. 1; [0011]; [0021], ln. 8-13).

The facial animations of Challapali are graphics files. It may be assumed that they

may be portable over the network. The text-to-animation system is a part of the client

system and stores appropriate facial animations. Nothing in Challapali would appear to

prevent the transmission of the graphics file to other systems over the network.

Additionally, Chodor discloses data comprising a portable network graphics file as

discussed for claim 5 above. The URL links to an image and therefore the image file may be

ported over the network via the URL. The reasons for doing so are the same as given for

claim 5 above. Namely, allowing a user/system to access and view an image.

30.   As to claims 26 and 32, the claims are rejected for reasons similar to claim 5 above.

31.   As to claims 28-29, the claims are rejected for reasons similar to claim 11 above.

32.   Claims 8-10, 15-16, 27, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali, Hyon, and Heikes as applied to claims 1, 14, 23, and 30 above, further in view of Chodor as applied to claims 5, 26, and 32 above, and further in view of Hickman et al. (Hickman), U.S. Patent No. 7,013,327 B1.

33.   As to claim 8, the claim is rejected for reasons similar to claim 5 above.

Challapali, Hyon, and Chodor disclose parsing the character sequence into an identifier and a location of the pixels as discussed for claim 5 above. Additionally, Chodor discloses the identifier and location being included in a message that includes the character sequence, in that Chodor disclosed a URL being included in a message and the URL including the identifier and the location of the corresponding image ([0080], ln. 29-32; [0081]; [0082]).

Accordingly, Challapali, Hyon, and Chodor are merely silent on storing the identifier and the location in a header.

However, Hickman discloses storing an identifier and a location in the header of a

message (Fig. 22A; Col. 18, ln. 45-48).

The combination of Challapali, Hyon, Chodor, and Hickman results in an obvious

combination to one of ordinary skill in the art at the time of the invention that would result

in the claimed subject matter of claim 8. Namely, Chodor discloses that a URL includes an

identifier and a location of the corresponding file. Hickman goes on to disclose that a header

may include a reference to the URL itself for display to an end user. Therefore, the

combination of Chodor and Hickman would lead to the obvious conclusion that a webpage

may be created that includes an image and a header identifying the URL of the webpage, the

URL including an identifier and a location. The message, i.e. the webpage, includes the

character sequence itself, i.e. the URL.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, and Chodor by including the

identifier and the location in the header of the message that includes the character sequence

as taught by Hickman in order to display the identifier and the location, that is the URL, to

the end user in the webpage itself so as to provide easy access to it.

34.   As to claim 9, the claim is rejected for reasons similar to claim 5 above.

Claim 5 includes a limitation indicating the object name includes the identifier and

the location. The rejection of claim 5 above showed that the object name may be separated

into parts indicating the identifier and the location. So the identifier and the location are

parts of an object name for the pixels.

35.   As to claim 10, the claim is rejected for reasons similar to claims 5 and 8 above.

The object name was shown to comprise the identifier and the location in the

rejection of claim 5 above, and as discussed for claim 9 above. Additionally, the inclusion of

the identifier and the location in the header of a message was discussed in the rejection of

claim 8 above.

36.   As to claims 15 and 34, the claims are rejected for reasons similar to claim 8 above.

37.   As to claim 16, the claim is rejected for reasons similar to claim 9 above.

38.   As to claim 27, the claim is rejected for reasons similar to claim 10 above.

39.   Claims 8-10, 15-16, 27, and 34 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Challapali, Hyon, and Heikes as applied to claims 1, 14, 23, and 30 above,

further in view of Chodor as applied to claims 5, 26, and 32 above, and further in view of

Dawson, U.S. Patent No. 6,252,588 B1.

40.   As to claim 8, as opposed to Hickman, alternatively Dawson discloses storing an

identifier and a location of pixels in the header of a message. Dawson may be interpreted as

being more relevant to the disclosure of the instant application as Dawson parses a received

email message header for an image and then displays the image to the recipient of the

message (Col. 20, ln. 56-61). In other words, the character sequence (that is the file

name/path identifying the image) in the header is translated into a corresponding image by

Dawson. This is analogous to the instant application in that a character sequence is also

translated into an image (a graphical emoticon).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, and Chodor by including the

identifier and the location in the header of the message that includes the character sequence

as taught by Dawson in order to parse the header to identifying the identifier and the

location of a corresponding image and display the image to the end user. Including this in the

header as opposed to the body of the message, leads to quicker access to the corresponding

image, as the body of the message need not be examined as part of the process. This is more

efficient, as the header is typically relatively small and limited in size, as opposed to the body

which may be much larger and thus take more time to examine than the header.

41.   As to claim 9, the claim is rejected for reasons similar to claim 5 above.

        Claim 5 includes a limitation indicating the object name includes the identifier and

the location. The rejection of claim 5 above showed that the object name may be separated

into parts indicating the identifier and the location. So the identifier and the location are

parts of an object name for the pixels.

42.   As to claim 10, the claim is rejected for reasons similar to claims 5 and 8 above.

        The object name was shown to comprise the identifier and the location in the

rejection of claim 5 above, and as discussed for claim 9 above. Additionally, the inclusion of

the identifier and the location in the header of a message was discussed in the rejection of

claim 8 above.

43.   As to claims 15 and 34, the claims are rejected for reasons similar to claim 8 above.

44.   As to claim 16, the claim is rejected for reasons similar to claim 9 above.

45.   As to claim 27, the claim is rejected for reasons similar to claim 10 above.

46.   Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, and Heikes as applied to claim 12 above, further in view of Day et al. (Day), U.S.

Publication No. 2005/0027839 A1.

47.   As to claim 13, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 1, wherein data representing the pixels in a single instant message (see the

rejection of claim 1 above for a discussion on how Challapali translates the emoticon strings

in an instant message into facial animations),but are silent on the instant messaging has a

limited data capacity that excludes including data representing the pixels in a single instant

message that also includes data representing a threshold amount of text.

        However, Day discloses a method by which every time a threshold amount of text in

a message is reached, that portion of the message is transmitted without user intervention,

and the user is allowed to continue typing the remainder of the intended message (Abstract).

Thus, Day discloses instant messaging has a limited data capacity that includes including data

in a single instant message that includes data representing a threshold amount of text. An

outcome of Day's system is that any text typed after a threshold point will be excluded from

the portion of the text sent up to the threshold. Therefore, this would include any emoticon

strings entered by the user after the threshold is reached. Therefore, the combination of Challapali, Hyon, and Day would result in the claimed subject matter of claim 13.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Challapali, Hyon, and Heikes by having a limited data capacity on instant messaging and excluding data representing pixels in a single instant message that also includes data representing a threshold amount of text as taught by Day in order to conform with data capacity requirements placed on instant messages by the instant messaging service provider, but preventing the need for the user to actively pay attention to such a limit, instead allowing transparent conformance to the limit through automatic sending of threshold amounts of text.

48.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali, Hyon, and Heikes as applied to claim 14 above, further in view of Jilk, JR. et al. (Jilk), U.S. Publication No. 2002/0010746 A1.

49.   As to claim 17, Challapali, Hyon, and Heikes disclose the invention substantially as in parent claim 14.

Challapali may be interpreted as disclosing that the pixel array has been previously

stored in local store medium and therefore it is always determined that there is a mapping to

it (see the rejections of claims 1 and 11 above).

However, Examiner believes Applicant is attempting to claim caching. For the

purposes of expedited prosecution, prior art related to caching is now discussed.

Jilk discloses retrieving includes mapping to a local storage medium to determine if a

pixel array has been previously stored in the local storage medium ([0164]).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, and Heikes by checking for cached

images as taught by Jilk in order to improve performance and reduce load in the server

providing the image (Jilk: [0164]).

50.   Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, Heikes, and Jilk as applied to claim 17 above, further in view of Goodwin, III et al.

(Goodwin), U.S. Publication No. 2002/0065931 A1.

51.   As to claim 18, Challapali, Hyon, Heikes, and Jilk disclose the invention substantially

as in parent claim 17, including caching images (as discussed for claim 17 above), but are

silent on the cache comprising temporary files used by a web browser.

However, this is one of the most well known uses of caching in the field. Goodwin

discloses using a cache of temporary files to be used by a web browser ([0005], ln. 1-6).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, Heikes, and Jilk by caching

temporary files used by a web browser as taught by Goodwin so that the same content need

not be downloaded again the next time the web content is accessed (Goodwin: [0005], ln. 1-

6).

52.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, and Heikes as applied to claim 14 above, further in view of Jilk as applied to claim 17

above, further in view of Goldschneider et al. (Goldschneider), U.S. Publication No.

2002/0107925 A1, and further in view of Huntington et al. (Huntington), U.S. Publication

No. 2003/0131098 A1.

53.   As to claim 19, Challapali, Hyon, Heikes, and Jilk disclose the invention substantially

as in parent claim 14, including checking for the pixel array on a local storage medium (see

the rejection of claim 17 above), but are silent on if the pixel array is not located in the local

storage medium, then attempting to establish a direct link with a sender of the

communication to retrieve the pixel array from a storage medium associated with the sender;

and if a directly link to the sender cannot be established, then retrieving the pixel array

through a server between the sender of the communication and the recipient of the

communication.

However, Goldschneider discloses if a file is not located in local storage medium, then

attempting to establish a direct link with a sender of a communication to retrieve the pixel

array from a storage medium associated with the sender ([0032]).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, Heikes, and Jilk by enabling a

recipient to request retransmission of a file as taught by Goldschneider in order to allow a

recipient to receive a file that was either lost or never received properly.

Challapali, Hyon, Heikes, Jilk, and Goldschneider are silent on if a directly link to the

sender cannot be established, then retrieving the pixel array through a server between the

sender of the communication and the recipient of the communication.

However, Huntington discloses if a directly link to a sender cannot be established,

then retrieving a file through a server between the sender of a communication and a

recipient of the communication ([0203]).

Huntington teaches a method by which content unavailable from the intended sender

can instead be sent from a cache server.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, Heikes, Jilk, and Goldschneider by

acquiring content from a cache server if access to the original sender cannot be established as

taught by Huntington in order to access content from a cache server even when the original

sender cannot properly send the requested content (Huntington: [0203]).

54.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, Heikes, Jilk, Goldschneider, and Huntington as applied to claim 19 above, and further

in view of Zhao, U.S. Patent No. 7,353,253 B1.

55.   As to claim 20, Challapali, Hyon, Heikes, Jilk, Goldschneider, and Huntington

describe the invention substantially as in parent claim 19, but are silent on a direct link using

a peer-to-peer connection using one of TCP or UDP.

However, Zhao discloses a direct link using a peer-to-peer connection using UDP

(Fig. 1; Col. 6, ln. 37-39 and 42-48).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Challapali, Hyon, Heikes, Jilk, Goldschneider, and

Huntington by including a direct link using a peer-to-peer connection using UDP as taught

by Zhao in order to avoid the extra processing required in a client-server model (Col. 6, ln.

42-48) and in order to take advantage of the bandwidth consumption efficiency of the UDP

multicast form of delivery (Col. 6, ln. 42-48).

56.   Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Challapali,

Hyon, and Heikes as applied to claim 21 above, further in view of what was well known in

the art at the time of the invention.

57.   As to claim 22, Challapali, Hyon, and Heikes disclose the invention substantially as in

parent claim 21, but do not explicitly teach adapting images of various sizes and formats to a

pixel array format of predetermined size, for use as the graphics data of emoticons ("for use as

the graphics data of emoticons" is intended use and therefore not given weight).

    Official Notice (see MPEP 2144.03) is taken that adapting images of various sizes and

formats to a pixel array format of predetermined size was well known in the art at the time

of the invention.

    Applicant fails to disclose the step as occurring automatically. Methods for

conforming to a requirement for pixel dimensions such as a user cropping and/or shrinking

an image prior to use (such as the requirement for buddy icons to meet pixel dimension

requirements or an emoticon to meet the required 19 x 19 pixel grid limitation as discussed

for claim 3 above) were well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to

modify the teachings of Challapali, Hyon, and Heikes by adapting images of various sizes and

formats to a pixel array format of predetermined size to get this well-known feature.

Conclusion

58.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until

after the end of the THREE-MONTH shortened statutory period, then the shortened

statutory period will expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.

In no event, however, will the statutory period for reply expire later than SIX MONTHS

from the date of this final action.

59.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-

1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access

to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll-free). If you would like assistance from a USPTO Customer Service Representative or

access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or

571-272-1000.

Brian P. Whipple   /Dohm Chankong/
/B. P. W./   Primary Examiner, Art Unit 2452
Examiner, Art Unit 2452
6/17/09